

These minutes are subject to formal approval by the Wyoming Zoning Board of Appeals at their regular meeting on March 2, 2015.

MINUTES OF THE WYOMING BOARD OF ZONING APPEALS  
HELD AT WYOMING CITY HALL

February 16, 2015

The meeting was called to order at 1:30 P.M. by Acting Chairman Lomonaco.

Members present:    Beduhn           Burrill           Dykhouse       Lomonaco  
                                 Postema

Member absent:       Palmer           VanderSluis

A motion was made by Burrill, and seconded by Postema to excuse Palmer and VanderSluis.  
Motion carried:        5 Yeas            0 Nays

Other official present:        Tim Cochran, City Planner

In the absence of VanderSluis and Palmer, Secretary Lomonaco volunteered to chair the meeting. There was no objection. Burrill volunteered to act as secretary.

A motion was made by Postema, and seconded by Beduhn to approve the minutes of the February 2, 2015 Board of Zoning Appeals meeting.  
Motion carried:        5 Yeas            0 Nays

PUBLIC HEARING:

Appeal #V150006                    P.P. #41-17-35-401-004  
Pinnacle Tool  
1150 Gezon Parkway SW  
Zoned I-3

The application requesting a variance from the City of Wyoming Zoning Code was read by Acting Secretary Burrill as follows:

Zoning Code Section 90-894 (9) Nonresidential Districts requires a front yard building setback of 50 feet in this I-3 Restricted Industrial District. The petitioner proposes to construct an addition to the existing building that would have a front yard building setback of 44 feet. The petitioner requested a variance of six feet to allow the proposed 44 foot front yard setback.

Acting Chairman Lomonaco opened the public hearing.

Rob Berends, Exxel Engineering, 5252 Clyde Park Ave., was present with the Mr. Hitson owner of Pinnacle Tool. In 2003, Pinnacle Tool had received a variance that reduced the

setback to one corner of the building to 46.9' and the setback of another corner to 35.1'. This 6' variance would be between those. Pinnacle Tool needs the proposed addition for new presses they are purchasing. The proposed addition is being moved one bay forward to the south, but will still need a 6' setback variance.

There being no further remarks, Acting Chairman Lomonaco closed the public hearing.

A motion was made by Postema and seconded by Dykhouse that the request for a variance in application no. V150006 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because Zoning Code section 90-894 (4) specifies a minimum 50 foot building setback from Gezon Parkway. In April 2003, this property was granted a setback variance to allow the building to be 35 feet from the Gezon Parkway right-of-way. The building is angled to Gezon Parkway which resulted in two corners extending into the setback area. The proposed 11,250 square foot addition to Pinnacle Tool is designed to extend their existing manufacturing processes. The proposed addition again results in a small corner of being 44 feet from the right-of-way. The addition will be in keeping with the overall development of the property.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the proposed addition will enhance Pinnacle Tools manufacturing processes. The requested variance is a minor extension into the setback area and would result in a consistent building appearance.
3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the authorizing of the variance will have no impact on adjoining properties and will not unduly increase traffic congestion.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the property has been developed with a 35 foot setback from Gezon Parkway. The proposed addition would have a small corner 44 feet from Gezon Parkway. The proposed addition is consistent in design with the existing development. This situation is not of a general nature.

Motion carried:            5 Yeas            0 Nays (Resolution #5573)

PUBLIC HEARING:

Appeal #V150007                      P.P. #41-17-09-476-047  
Five Star Real Estate  
2445 28th St. SW  
Zoned R-2

The application requesting a variance from the City of Wyoming Zoning Code was read by Acting Secretary Burrill as follows:

Zoning Code Section 90-96 (2) Principal Permitted Uses requires churches to be on properties of a minimum of three acres. The subject church property is nonconforming to this requirement as it is 1.94 acres. The petitioner proposed to sell off a 0.16 acre (7,136 square feet) portion of the property to combine with an adjoining property. The petitioner requested a variance to further reduce a nonconforming property from 1.94 acres to 1.78 acres, a reduction of 0.16 acres.

Acting Chairman Lomonaco opened the public hearing.

John Englehard, Five Star Real Estate, represented the church in the proposed sale of what had been the church's parsonage. Currently, the driveway for the house does not have access to the drive but crosses over the existing church property. The variance is needed to give the house access to the drive approach off Byron Center Road. He exhibited an easement agreement between the church property and the house property to share the existing drive. The current Potter's House school had had an easement to this drive approach but he also got a quit claim from Potter's House to eliminate that provision of the easement.

There being no further remarks, Acting Chairman Lomonaco closed the public hearing.

Cochran said that with many churches in the City have sold their former parsonages. The submitted access easement agreement is necessary for both parties to be able to use the driveway off Byron Center. Potter's House had an easement to have the right, however they do not have the need to use this driveway as they have access to other drives; specifically 28<sup>th</sup> St. The church's property is already undersized. Reducing the size of the lot to provide an access drive for the house will not change the current use.

A motion was made by Burrill and seconded by Dykhouse that the request for a variance in application no. V150007 be granted, accepting staff's Finding of Facts.

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to other property or class of use in the same vicinity and district because Zoning Code section 90-96 (2) specifies that churches shall be on a minimum of three acres. The existing church is nonconforming to this requirement as it has 1.94 acres. The church desires to transfer ownership of 0.16 acres of this property to an adjoining parcel. The single family residence on that separate parcel was used for the church parsonage, but is now desired to be used for private ownership. Access to that property is through the church parking lot. The desire is to transfer ownership of this 0.16 acres to clarify access rights. There is also an existing access easement over this driveway to Potters House (located to the west). The transfer of ownership of the 0.16 acres, while maintaining viable access easements to all current entities, would not materially change the relationship between the properties. The proposed property line would be established essentially through the mid-point of the existing driveway. The authorization of the variance is conditioned upon maintaining the existing access rights between all current entities.
2. That such variance is necessary for the preservation and enjoyment of substantial property rights because the transfer of ownership of the 0.16 acres, while maintaining existing access rights, will not materially diminish property rights between the adjoining

properties.

3. That the granting of such variance will not diminish the marketable value of adjacent land and improvements, or unduly increase congestion in the public streets because the authorizing of the variance will have no impact on adjoining properties and will not increase traffic congestion.
4. That the condition or situation of a specific piece of property, or the intended use of said property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation because the existing property and development relationship between the church and adjoining residence is not of a general nature and does not make practicable the formulation of a general regulation.

Postema asked if the City would have any concern that the lot where the house is located could be split in the future.

Cochran did not foresee any request for a lot split, but any request would require another variance.

Motion carried:            5 Yeas            0 Nays (Resolution #5574)

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There were no public comments at the meeting.

The new business items were discussed by Cochran and the Board members.

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Canda Lomonaco  
Secretary

CL:cb